

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	CRIMINAL ACTION
	:	
v.	:	
	:	
NIHEEM LEWIS	:	NO. 19-235

MEMORANDUM

Savage, J.

December 23, 2020

Niheem Lewis, who is serving a 78-month prison sentence, has moved for compassionate release. He argues that he is at risk because the Federal Detention Center has insufficient safeguards to minimize the spread of COVID-19.¹ He claims that he tested negative for the virus, but was later placed in a unit with infected inmates.² He does not identify any personal health conditions placing him at higher risk for death or serious illness from COVID-19.

Before filing a motion for compassionate release under 18 U.S.C. § 3582(c)(1)(A), the defendant must exhaust his administrative remedies. Specifically, the statute provides that:

[T]he court, upon motion of the Director of the Bureau of Prisons, or upon motion of the defendant after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant's behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant's facility, whichever is earlier, may reduce the term of imprisonment

18 U.S.C. § 3582(c)(1)(A).

¹ Def.'s Mot. for Comp. Release at 1-2 (ECF No. 51).

² *Id.*

To exhaust administrative remedies, a defendant must first present his request for compassionate release to the warden. After 30 days of submitting the request, the defendant may move for compassionate release in the district court, whether the warden has denied the request or has not acted. *Id.*; *United States v. Raia*, 954 F.3d 594, 595-96 (3d Cir. 2020). The exhaustion requirement is mandatory. *Raia*, 954 F.3d at 597. Therefore, because Lewis did not file a petition or a request with the Warden, his compassionate release request must be dismissed.